IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.565 OF 2005
IN
ARBITRATION PETITION NO.348 OF 2003

C P Ships (UK) Ltd. .. Appellant.
V/s.
Vijay Agarwal & Others .. Respondents.

Mr.D.C. Gomes for the appellant.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 19TH JULY, 2005.

P.C. :

Heard Mr.David Gomes, the learned counsel for the appellant. We perused the impugned order and the available material.

2. The learned counsel for the appellant could not show us any material that would indicate that the respondent Nos.1 to 4 were the partners of respondent No.5-firm or that the respondent No.5 was a partnership firm. It is true that the respondent Nos.1 to 4 were served with the notice in the arbitration proceedings. It is also true that they did not file any reply. However, the fact remains that the appellant in its statement of claim before the arbitral tribunal described the present respondent Nos.1 to 4 as 'all trading as a partnership Rohan Exports (India)' and award is passed against them as such. When the appellant sought to enforce the foreign award, inter alia, the

objection was raised by the present respondent Nos.1 to 4 that they were not the partners of Rohan Exports (India). According to the appellant, Rohan Exports (India) is incorporated in Pakistan. It was for the appellant to satisfy that Rohan Exports (India) was a partnership firm in which respondent Nos.1 to 4 were the partners. The appellant failed to do so.

3. The learned Single Judge also observed that none of the present respondent Nos.1 to 4 have signed the bill of lading. The bill of lading describes Oriental Clearing Agencies as shipper and it is shown to have been issued on account of Rohan Exports (India). As already indicated the respondent Nos.1 to 4 do not seem to be partners of Rohan Exports (India) and the said respondents having not signed the bill of lading, the learned Single Judge cannot be said to have erred in holding that the liability of respondent Nos.1 to 4 cannot be fastened as partners of Rohan Exports (India).

4. We concur with the view of the learned Single Judge and find no justifiable reasons in interfering with the impugned order.

5. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)